

**Maine Revised Statutes**  
**Title 26: LABOR AND INDUSTRY**  
**Chapter 7: EMPLOYMENT PRACTICES**

**§809. ABSENCE FOR EMERGENCY RESPONSE**

**1. Definitions.** As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "Employer" means any private or public employer, including the State and political subdivisions of the State. [2005, c. 296, §1 (NEW).]

A-1. "Firefighter" has the same meaning as "municipal firefighter" and "volunteer firefighter" in Title 30-A, section 3151, subsections 2 and 4. [2013, c. 477, §1 (NEW).]

B. "Responding to an emergency" means responding to, working at the scene of or returning from a fire call, a hazardous or toxic materials spill and cleanup or any other situation to which the fire department has been dispatched. [2005, c. 296, §1 (NEW).]

C. [2013, c. 477, §2 (RP).]

[ 2013, c. 477, §§1, 2 (AMD) .]

**2. Prohibition against discharge or disciplinary action.** An employer may not discharge or take any other disciplinary action against an employee because of the employee's failure to report for work at the beginning of the employee's regular working hours if the employee failed to do so because the employee was responding to an emergency in the employee's capacity as a firefighter and the employee reported for work as soon as reasonably possible after being released from the emergency. An employer may charge the lost time against the employee's regular pay or against the employee's available leave time. This subsection does not apply to the absence of a firefighter from the firefighter's regular employment as a law enforcement officer, a utility worker or medical personnel when the services of that person are essential to protect public health or safety or if the employee has been designated as essential by the employer pursuant to subsection 6.

[ 2013, c. 477, §3 (AMD) .]

**3. Notification; verification.** If time permits, when an employee is responding as a firefighter to an emergency, the employee, the employee's designee or the fire department supervisor shall notify the employer that the employee will not report to work at the appointed time. At the request of an employer, an employee losing work time as provided in subsection 2 shall provide the employer with a statement from the chief of the fire department or the chief's designee stating that the employee was responding to an emergency call and the time of release from the call.

[ 2013, c. 477, §4 (AMD) .]

**4. Enforcement; penalty for violation.** If an employer has violated subsection 2, the employee may bring an action in Superior Court in the county in which the employee resides or in the county in which the employer's place of business is located. The action must be brought within one year of the date of the alleged violation. If the court finds that the employer violated subsection 2, and if the employee so requests, the court shall order the employer to reinstate the employee in the employee's former position without reduction of pay, seniority or other benefits. The court also shall order any other appropriate remedy necessary to return

the employee to the position the employee would have been in had the employer not violated subsection 2, including payment of back pay and reinstatement of any other benefits lost during the period in which the discharge or disciplinary action was in effect.

[ 2005, c. 296, §1 (NEW) . ]

**5. Impact on individual agreements.** This section does not apply if the employer and the employee have entered into a written agreement, signed by the employer and the employee, that governs procedures to be followed when the employee is called to respond to an emergency as a firefighter. This subsection applies only if:

A. The local official in charge of calling out firefighters has a written policy that:

(1) Specifies the circumstances under which firefighters will be ordered to remain at an emergency; and

(2) Affirms that firefighters will be released as soon as practicable; and [ 2005, c. 296, §1 (NEW) . ]

B. The employee presents a copy of the policy to the employer upon notifying the employer of the employee's status as a firefighter. [ 2013, c. 477, §5 (AMD) . ]

[ 2013, c. 477, §5 (AMD) . ]

**6. Designation as essential.** Upon receiving notice of an employee's firefighter status, an employer may designate the employee essential to the employer's operations when the absence of the employee would cause disruption of the employer's business.

[ 2013, c. 477, §6 (AMD) . ]

#### SECTION HISTORY

2005, c. 296, §1 (NEW). 2013, c. 477, §§1-6 (AMD).

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